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SERVICE DATE – JANUARY 21, 2004

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-33 (Sub-No. 143X)

UNION PACIFIC RAILROAD COMPANY—ABANDONMENT AND DISCONTINUANCE OF
TRACKAGE RIGHTS EXEMPTION—IN WRIGHT, FRANKLIN AND CERRO GORDO
COUNTIES, IA

Decided: January 20, 2004

On February 10, 2000, a decision and notice of interim trail use or abandonment (NITU) was served, authorizing a 180-day period for Iowa Trails Council and the Wright County Conservation Board, a county government agency (collectively, ITC), to negotiate an interim trail use/rail banking agreement with the Union Pacific Railroad Company (UP) for the 12.38-mile line of railroad over the Thornton Industrial Lead (formerly known as the Fort Dodge Branch) from milepost 17.14 near Thornton to milepost 29.52 near Belmond, in Wright, Franklin and Cerro Gordo Counties, IA. The negotiation period was extended several times; the latest extension was scheduled to expire on January 5, 2004.

By facsimile filed January 5, 2004, ITC requests an extension of the NITU negotiation period for an additional 180 days. ITC states that funding has become very difficult to obtain and that it is not able, at this time, to raise sufficient funds to meet the asking price of UP. In a response submitted on January 16, 2004, UP states that it will only support an extension of the negotiating period for 45 days commencing January 5, 2004.

Where, as here, the carrier has not consummated the abandonment at the end of the previously imposed negotiating period and is willing to continue trail use negotiations, the Board retains jurisdiction and the NITU negotiating period may be extended. Under the circumstances, an extension of the negotiating period is warranted. See Birt v. STB, 90 F.3d 580, 588-90 (D.C. Cir. 1996); Grantwood Village v. Missouri Pac. R.R. Co., 95 F.3d 654, 659 (8th Cir. 1996), cert. denied, 519 U.S. 1149 (1997). Accordingly, the NITU negotiating period will be extended for an additional 45 days from January 5, 2004 (until February 19, 2004).¹

¹ See Rail Abandonments—Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987).

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. ITC's request to extend the NITU negotiating period is granted.
2. The negotiating period under the NITU is extended to February 19, 2004.
3. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary